SB567

Measure Title: RELATED TO MENTAL HEALTH TREATMENT.

Report Title: Department of Health; Task Force; Mental Health

Petitions; Attorney General

Requires an individual to be examined prior to release

from emergency examination, emergency hospitalization, or voluntary inpatient treatment to

determine whether an assisted community plan is indicated and, if so, requires the department of the

Description: attorney general to handle the petition for assisted

community treatment. Requires the department of health to convene a mental health emergencies task force. Makes the department of the attorney general responsible for filing assisted community treatment

petitions.

Companion: <u>HB1240</u>

Package: None

Current Referral:

CPH, JDC/WAM

Introducer(s): K. RHOADS

ON THE FOLLOWING MEASURE:

S.B. NO. 567, RELATING TO MENTAL HEALTH TREATMENT.

BEFORE THE:

SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

DATE: Wednesday, February 13, 2019 **TIME:** 9:10 a.m.

LOCATION: State Capitol, Room 229

TESTIFIER(S): Clare E. Connors, Attorney General, or

Erin LS Yamashiro, Deputy Attorney General

Chair Baker and Members of the Committee:

The Department of the Attorney General (Department) appreciates the intent of this bill and provides the following comments.

The purpose of this bill is to require a psychiatric facility to determine whether an individual meets the criteria for an assisted community treatment order before he or she is released from emergency hospitalization after an emergency examination, or release from voluntary inpatient treatment pursuant to chapter 334, Hawaii Revised Statutes (HRS), and for the Department to file the petition for assisted community treatment.

The Department has concerns regarding this bill, as written. Once an individual is released from a psychiatric facility, the individual's whereabouts may be difficult to determine. This is problematic because section 334-125(a)(1), HRS, requires the individual to be personally served before the court may proceed with the Department's petition for assisted community treatment. To avoid this problem, the psychiatric facility should determine whether an assisted community treatment order is appropriate after the individual has been committed to the psychiatric facility pursuant to section 334-60.2, HRS. If it is determined that the committed individual subsequently meets the criteria for assisted community treatment, then a petition can be prepared, filed, and served and a hearing convened while the individual is still committed to the psychiatric facility.

Additionally section 1 of the bill adds a new section to chapter 334, HRS, to make the Department "responsible" for petitions brought pursuant to section 334-123, HRS. The new section on page 2, line 3 should be amended to replace "responsible" with "assist" to be consistent with sections 334-60.3 and 334-60.5, HRS, which are sections related to involuntary hospitalization matters. The Committee should also clarify that the Department's assistance will include the related hearing.

Accordingly, section 1, page 1, lines 4-17, through page 2, lines 1-6, should be amended to read as follows:

After the commitment of a person to a psychiatric facility for involuntary hospitalization pursuant to sections 334-60.2 and 334-60.5, a licensed psychiatrist or advanced practice registered nurse with prescriptive authority and who holds an accredited national certification in an advanced practice registered nurse psychiatric specialization associated with the licensed psychiatric facility where the individual is located shall examine the individual to determine whether an assisted community treatment plan is indicated pursuant to section 334-123. If a plan is indicated, the psychiatrist or nurse shall prepare the certificate specified by section 334-123(b), and the facility shall notify the department of the attorney general, who shall assist with the petition for assisted community treatment and the related court proceeding. The facility may notify another mental health program for assistance with the coordination of care in the community."

Similarly, the amendment to section 24 of Act 221, Session Laws of Hawaii 2013, as amended made in section 3, page 4, lines 7-10, should be amended to replace "responsible" with "assist" to read as follows:

"(4) The department of the attorney general shall assist with the petitions brought pursuant to section 334-123, Hawaii Revised Statutes, and the related court proceeding, unless the private provider or other interested party declines their assistance."

Testimony of the Department of the Attorney General Thirtieth Legislature, 2019 Page 3 of 3

Finally, the Department will need additional funding and resources to carry out the statewide responsibility articulated in this bill.

We respectfully ask that the Committee make the suggested modifications if it intends to pass this measure.

DAVID Y. IGE GOVERNOR OF HAWAII



STATE OF HAWAII **DEPARTMENT OF HEALTH**

P. O. Box 3378 Honolulu, HI 96801-3378 doh.testimony@doh.hawaii.gov

Testimony COMMENTING on SB0567 RELATING TO MENTAL HEALTH TREATMENT

SENATOR ROSALYN H. BAKER, CHAIR SENATE COMMITTEE ON HEALTH

Hearing Date and Time: Wednesday, February 13, 2019 at 9:10 a.m. Room: 229

- Fiscal Implications: Undetermined. 1
- **Department Testimony:** SB567 proposes to require that an individual to be examined prior to 2
- 3 release from emergency examination, during an emergency hospitalization, or during a
- 4 voluntary inpatient hospitalization to determine whether an assisted community treatment plan is
- indicated. If the assisted community treatment plan is indicated, the department of the attorney 5
- 6 general will be required to handle the petition for assisted community treatment. Additionally,
- 7 this measure proposes a requirement for the department of health to convene a mental health
- 8 emergencies task force and makes the department of the attorney general responsible for filing
- 9 the petitions for assisted community treatment.

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- The Department of Health (DOH) offers comments on this measure and provides the following information for consideration:
- Regarding emergency examination, the DOH assesses that there may be potentially 12 significant operational and mental health staffing challenges, at some facilities, to accomplish the purpose of this measure.
 - Regarding assessing the advisability of assisted community treatment prior to release from emergency hospitalization and release from voluntary hospitalization, asking mental health staff, as defined, to assess the advisability of assisted outpatient treatment should be potentially feasible.

- We defer to department of the attorney general to address the implications of their work including the proposed responsibilities related to addressing handling of petitions for assisted community treatment.
- The DOH acknowledges that access to timely mental health treatment is a critical component of ongoing community-based health care.
- The DOH thanks the committee for hearing this measure and looks forward to continued collaboration with the Senate Committee on Health, other legislators, and community stakeholders in addressing the intent and spirit of this measure.
- 9 Thank you for the opportunity to testify.
- 10 Offered Amendments: None.

<u>SB-567</u> Submitted on: 2/12/2019 7:50:04 AM

Testimony for CPH on 2/13/2019 9:10:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Testifying for O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i	Support	No

To: The Honorable Senator Rosalyn Baker, Chair
The Honorable Senator Stanley Chang, Vice Chair
Senate Committee on Commerce, Consumer Protection & Health

Subject: IHS Testimony in Support of SB567

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Roberta DuTeil The Rev. Msgr. Terrance Watanabe Aloha Senate Committee Members,

I humbly ask for your support in advancing SB567, which compliments current measures passing through the Hawaii State Legislature. This bill addresses a gap within our system where mentally ill and substance-affected homeless individuals are being discharged from medical centers without a safety net plan and who are unknowingly sick and in need of medical psychiatric treatment.

For those who are homeless with mental illnesses- our system currently utilizes the MH2 process where a clinician who sees a dangerous person may call family court to obtain a police transport to either Queen's or Castle Emergency Rooms. These two emergency rooms are under no obligation to admit the client, however. Every client has the right to refuse care. Therefore, if a homeless patient does not benefit from medication or will not comply, the process is to discharge the patient at which point the person moves back into the streets. This process is costing taxpayers and medical centers millions in wasted spending. IHS Homeless Outreach personnel have documented hundreds of encounters where they interface mentally ill homeless clients recently discharged from hospitals. Additionally, shelter programs receive on average 600+ hospital referrals a year from these emergency rooms.

SB567 becomes a safety net option to identify a mentally ill person needing an assessment, and streamlining the court ordered treatment process. Currently, IHS utilizes privately funded specialty shelters for homeless discharged from emergency rooms and medical centers. These specialty shelters ensure homeless have the continuation of care needed following their medical emergency. While we hope to see SB1051 revitalized to ensure a specialty shelter for Act 221 patients is available, IHS is committed to working with the Attorney General's office and the assigned public guardian to ensure continuity of care and services result in permanent housing, treatment and rehabilitation for this population.

Mahalo for your support in passing SB567.

Respectfully,

Kimo K. Carvalho
Director of Community Relations
IHS, The Institute for Human Services, Inc.

Business Office | 546 Kaaahi Street, Honolulu, HI 96817 Phone 808.447.2800 | Fax 808.845.7190

IHS, The Institute for Human Services, Inc. is Hawaii's oldest, largest and most comprehensive homeless services agency focused exclusively on ending and preventing homelessness in Hawaii.



PARTNERS IN CARE

Oahu's Continuum of Care

Our mission is to eliminate homelessness through open and inclusive participation and the coordination of integrated responses.

Testimony in Strong Support of SB 567: Related to Mental Health Treatment

TO: Committee on Commerce, Consumer Protection, and Health

FROM: Partners in Care (PIC)

HEARING: Wednesday, February 13, 2019 at 9:00 a.m., Conference Room 229

Dear Chair Baker, Vice Chair Chang, and members of the Committee on Commerce, Consumer Protection, and Health:

Thank you for the opportunity to provide testimony on SB 567, which would help to ensure that people experiencing severe illness are connected to the services they need to ensure their safety and stability. Partners in Care (PIC)—a coalition of more than 50 non-profit homelessness providers—strongly supports this bill as a critical component of a comprehensive plan to address homelessness in Hawaii.

People experiencing severe mental illness represent a small, but significant portion of the population experiencing homelessness in Hawai'i. These are those individuals we see every day on our streets: psychotic, hallucinating, behaving erratically, with very poor hygiene and living in degrading and inhumane circumstances. They are extremely high utilizers of ambulance, police, ER, inpatient treatment, crisis services, arrest, and adjudication—at great expense; have been non-responsive to repeated homeless outreach attempts; are frequently victims of assault and, for women, rape; and do not understand that they are ill and therefore refuse treatment. Their untreated psychosis/schizophrenia causes brain damage, resulting in reduced brain functioning and decreased likelihood of recovery.

Such persons have a "right to treatment" in light of these circumstances, and desperately need it. One avenue for this is the Assisted Community Treatment (ACT) law, which enables the Court to order individuals like these, who meet very specific criteria, to receive treatment in the community. However, due to technical issues, ACT has been infrequently used. SB 567 seeks to make changes that would help ACT to accomplish its intended purpose, including the following:

- (1) Ensuring that individuals discharging under certain circumstances (e.g., release from voluntary inpatient treatment at a psychiatric facility) undergo an evaluation to determine whether an ACT plan is appropriate;
- (2) Establishing a Mental Health Emergencies Task Force to: (1) determine why medical facilities are not evaluating whether individuals brought for mental health emergencies meet criteria for ACT orders and other mental health services, and (2) to explore options for creating a statefunded treatment team for such persons; and
- (3) Make the department of the Attorney General responsible for filing ACT orders.

SB 567 is an important component of a plan that will enable us as a community to address the plight of those homeless individuals who are severely mentally ill and in dire need of treatment. For these reasons, PIC urges the passage of SB 567. Thank you for your consideration of this very important bill.

<u>SB-567</u> Submitted on: 2/7/2019 9:50:46 AM

Testimony for CPH on 2/13/2019 9:10:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
David Deges	Testifying for Hawaii Island HIV/AIDS Foundation	Support	Yes

<u>SB-567</u> Submitted on: 2/7/2019 11:29:56 AM

Testimony for CPH on 2/13/2019 9:10:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Julie Yurie Takishima- Lacasa	Testifying for Hawai'i Psychological Association	Support	No

<u>SB-567</u>

Submitted on: 2/9/2019 7:42:40 PM

Testimony for CPH on 2/13/2019 9:10:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Louis Erteschik	Testifying for Hawaii Disability Rights Center	Comments	Yes

Comments:

This bill improves upon the assisted community treatment law in two significant ways. First, it provides that prior to releasing an individual from a psychiatric hospitalization the patient is assessed to see if they meet the criteria for treatment. This seems to make sense inasmuch as we currently have a frequent revolving door whereby individuals are often brought in for evaluations and then released and then brought in again. This might be a way to get some of these people into treatment.

It also provides that the Attorney General shall be responsible for the filing of the petition. This would be a huge help to mental health advocates or family members who are trying to assist people in obtaining treatment.

The legal proceedings to addrrss these petitions are just that-legal proceedings. As such, many of these individuals are lay people and not familiar with the intricacies of the judicial system. The assistance of the Attorney General in that regard would be very valuable.



Helping Hawai'i Live Well

To: Senator Rosalyn Baker, Chair, Senator Stanley Chang, Vice Chair, Members, Senate Committee on Consumer Protection and Health

From: Trisha Kajimura, Executive Director

Re: TESTIMONY IN SUPPORT OF SB 567 RELATED TO MENTAL HEALTH TREATMENT

Hearing: February 13, 2019, 9:10 am, CR 229

Thank you for hearing **Senate Bill 567**, which amends Chapter 334 of the Hawaii Revised Statutes by adding a new section to part VIII to ensure that Assisted Community Treatment is considered for individuals under certain circumstances related to mental illness by a psychiatrist or advanced practice registered nurse. The bill also convenes a much needed mental health emergencies task force,

Mental Health America of Hawaii is a 501(c)3 organization founded in Hawaii 77 years ago, that serves the community by promoting mental health through advocacy, education and service.

Assisted Community Treatment (ACT)was passed by the Legislature in 2013 and was intended to help people who are so sick from mental illness that they are unable to recognize the need for their own treatment. Without assisted community treatment, these are community members living in terrible conditions, often homeless, unable to care for themselves and their own basic physical needs, hallucinating and suffering needlessly. With the proper treatment as provided through an ACT order, they are capable of a much higher level of functioning and can recover from their illness.

Currently, private service providers, community organizations and families do not have the resources to navigate the complex and congested system. The law needs to be further adjusted to improve the ACT process and bring more people with untreated mental illness enter recovery, escaping homelessness and its lack of dignity and humanity.

Thank you for considering my **testimony in support of SB 567**. Please contact me at <u>trisha.kajimura@mentalhealthhawaii.org</u> or (808)521-1846 if you have any questions.



CATHOLIC CHARITIES HAWAI'I

TESTIMONY IN SUPPORT OF SB 567: Relating to Mental Health Treatment

TO: Senator Rosalyn Baker, Chair, Senator Stanley Chang, Vice Chair, and Members,

Committee on Commerce, Consumer Protection and Health.

FROM: Betty Lou Larson, Legislative Liaison, Catholic Charities Hawai'i

Hearing: Wednesday, 2/13/19; 9:10 am; CR 229

Chair Baker, and Members, Committee on Commerce, Consumer Protection and Health:

Thank you for the opportunity to provide testimony **in support** of SB 567, which facilitates the assessments of mental health patients who are homeless and may benefit/need an assisted community plan. I am Betty Lou Larson, with Catholic Charities Hawai'i. We are also a member of Partners in Care.

Catholic Charities Hawai'i (CCH) is a tax exempt, non-profit agency that has been providing social services in Hawai'i for over 70 years. CCH has programs serving elders, children, families, homeless and immigrants. Our mission is to provide services and advocacy for the most vulnerable in Hawai'i.

Probably the most vulnerable of all the homeless living on the streets in Hawaii are the severely mentally ill individuals who suffer from psychosis, hallucinations and bizarre behaviors. They are living in degrading and inhumane situations. They are at great risk of assault, and for women, rape. They have been unreachable by homeless outreach teams. The public is afraid of them and demands that the government or police "do something". Yet, often they are just moved along to another location.

These homeless individuals often are frequent users of emergency rooms. SB 567 is critical because it addresses the need for ER's to file for Assisted Community Treatment (ACT) orders and holds them accountable. The mental health emergencies task force will also focus on that purpose as well trying to deal with the endless cycle between ER and street. Having the AG file the request for ACT orders will remove one of the obstacles to filing orders -- lack of ability of agencies' to pay for attorneys.

We need to seek humane solutions to help these most vulnerable homeless. This bill is an important step forward. We urge your support. Please contact me at (808) 373-0356 or bettylou.larson@catholiccharitieshawaii.org if you have any questions.









To: The Honorable Rosalyn H. Baker, Chair

The Honorable Stanley Chang, Vice Chair

Members, Committee on Commerce, Consumer Protection, and Health

Offella Lo Xuo

From: Paula Yoshioka, Vice President, Government Relations and External Affairs, The

Queen's Health Systems

Date: February 12, 2019

Senate Committee on Commerce, Consumer Protection, and Health Joint Hearing; Hrg:

Wednesday, February 13, 2019 at 9:10AM in Room 229

Re: Comments on S.B. 567, Relating to Mental Health Treatment

The Queen's Health Systems (Queen's) is a not-for-profit corporation that provides expanded health care capabilities to the people of Hawai'i and the Pacific Basin. Since the founding of the first Queen's hospital in 1859 by Queen Emma and King Kamehameha IV, it has been our mission to provide quality health care services in perpetuity for Native Hawaiians and all of the people of Hawai'i. Over the years, the organization has grown to four hospitals, 66 health care centers and labs, and more than 1,600 physicians statewide. As the preeminent health care system in Hawai'i, Queen's strives to provide superior patient care that is constantly advancing through education and research.

Queen's appreciates the opportunity to provide comments on S.B. 567, which requires an individual to be examined prior to release from emergency examination, emergency hospitalization, or voluntary inpatient treatment to determine whether an assisted community plan is indicated and, if so, requires the attorney general to handle the petition for assisted community treatment. Queen's believes that the bill as currently written, is vague in how emergency departments will be able to determine an individual's need for assisted community treatment. Although emergency providers make all attempts to locate family members, support networks and other care resources, this only a snapshot into an individual's life and does not provide an adequate assessment for determining if there is a need for assisted community treatment. Furthermore, even if emergency departments were to decide an individual is in need of assisted community treatment, it is unclear what will happen to the patient while a petition is being completed by the attorney general. We are concerned that this measure could increase potential holds and wait times in our emergency department, which is already over capacity and in fiscal year 2018, experienced over 1,160 ambulance divert hours.

Thank you for your time and attention to this important issue.

<u>SB</u>-567

Submitted on: 2/12/2019 7:10:09 PM

Testimony for CPH on 2/13/2019 9:10:00 AM



Submitted By	Organization	Testifier Position	Present at Hearing
Mike Goodman	Testifying for Hawaii Kai Homeless Task Force	Support	Yes

Comments:

TO: Senate Committee on Commerce, Consumer Protection and Health)

FROM: Mike Goodman, Hawaii Kai Homeless Task Force & Member Partners in Care (PIC)

HEARING: Wednesday, February 13, 2019, 9:10 AM

FOR SB567

The Hawaii Kai Homeless Task Force strongly supports SB567. We also made a recommendation for amendments.

"Assisted Community Treatment" under HRS Chapter 134 ("ACT"), is contemplated to address the problem of impaired persons, many who are homeless, who are a danger to themselves or others, and refuse treatment for their underlying conditions. The problem is that since 2013, only 10 individuals have received court-ordered treatment under ACT.

SB567 is a crucial part of a series of bills including SB1124, SB1051, SB1464 and SB1465, all of which are intended to make critical improvements to the ACT program. It's important for all of these bills to pass.

Just within a 10-block radius of the Capitol, dozens of severely mentally ill and substance addicted homeless live unsheltered under appalling conditions. They cycle endlessly between jails and hospitals or wander aimlessly with their worldly belongings stuffed into shopping carts.

The life expectancy of an unsheltered impaired homeless person is about twenty years shorter than a person with a home. Mired in filth and exposed to the elements, serious diseases are common and small injuries become festering sores;

Over the last few decades, homelessness amongst severely mentally ill and substance addicted persons increased to about 1600â, °2000 people. Along with their suffering, the quality of life for residents and tourists is severely impacted; Chinatown became a

dystopian mix of the fortunate and unfortunate; where the aroma of garlic clashes with the stench of urine and feces; Sidewalks, freeway medians and world class beaches are now routinely used as trash dumps and bathrooms; Many Honolulu City Parks and even lolani Palace, will be closing at night to prevent property damage; The Children's Discovery Center in Kaka'ako might go out of business, because parents don't feel safe bringing their children. Their fears are not completely irrational; Statistically, crime rates increase sharply around homeless camps.

Severely mentally ill and substance addicted homeless also impose the greatest burden on taxpayers. The aggregate cost for emergency medical services, law enforcement, the judiciary, repair and cleanup of public and private property, homeless sweeps is hard to quantify, but likely to exceed \$200 million dollars a year.

Because mental impairments interfere with their ability to make rational decisions, many chronic homeless persons refuse services and treatment. This is an untenable situation SB567, SB1124, SB1051, SB1464 and SB1465 aims to correct.

The cost of helping and treating impaired homeless persons should result in a net savings to the State. According to the UH Center on the Family, estimated healthcare cost savings for impaired homeless who get mental health treatment through Housing First programs, result in a savings of \$6,197 per client per month, which is estimated to be a 76% decrease in costs. Based on these figures, if all impaired chronic homeless are housed and treated, the State could save roughly \$140 million a year, just on medical expenses.

RECOMMENDED AMENDMENTS:

The Point in Time Count indicates the population of impaired chronic homeless in Hawaii is 1600 persons. However, the 2017 Service Utilization Report from the U.H. Center for the Family indicates the figure could be higher. So, for planning purposes, let's assume the number is 2000.

For HRS Chapter 334 and the ACT program to have a significant impact, correcting flaws with implementation are not enough; We must have a plan to increase the scale of ACT to accommodate 2000 people.

The American Bar Association Journal, dated January 2019, reported that in 2016, there were an estimated 10.4 million adults in the United States suffering from a *serious mental illness*. That same year, there were only 37,769 psychiatric beds in the entire Nation. These shortages extend to Hawaii. We must also have a plan to increase the scale of psychiatric resources.

We therefore recommend that SECTION 2. (1)â,º(4) of this bill be supplemented with additional language, requiring the task force to formulate and recommend a plan and *pro-forma* budget to (1) Provide enough judges, guardian at litems and Deputy Attorneys General to process the caseload for 2000 people; (2) Provide treatment for at

least 2000 people; (3) Provide enough psychiatric hospital beds, that can also be used for detox, or a reasonable alternative to a psychiatric hospital; (4) Provide enough medical professionals, addiction specialists, social workers and support staff; and (5) Make recommendations as to whether existing facilities should be expanded or new ones should be built, or whether there are reasonable, low-cost alternatives. For example, using military style field hospitals might be exponentially more cost-effective than building or expanding brick and mortar hospital, and could be ready to use in months, instead of years.

Thank you for the opportunity to testify.

<u>SB-567</u> Submitted on: 2/6/2019 2:26:21 PM

Testimony for CPH on 2/13/2019 9:10:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Fred Delosantos	Individual	Oppose	No

Comments:

I oppose SB567. This amounts to 1st amendment infringement and government censorship.

<u>SB-567</u> Submitted on: 2/10/2019 2:00:40 PM

Testimony for CPH on 2/13/2019 9:10:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
austin keliinoi- westbrook	Individual	Oppose	No